

**From:** Emily Kaht  
**Sent:** Wed, 9 Jun 2021 07:29:01 -0500  
**To:** T9PublicHearing  
**Subject:** Written Comment: Title IX Public Hearing about discrimination on the basis of sex

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As the Department of Education considers how to apply President Biden's gender identity executive order (E.O. 13988), I urge you to apply common sense in upholding the original intent of Title IX.

Title IX was meant to provide equality between the sexes. When it was written, no one in their wildest dreams would have thought that Title IX would later be weaponized as an argument that boys should be allowed in girls' locker rooms, bathrooms, and sports. The intended and common-sense purpose of Title IX allows and, arguably, requires recognition of and separation on the basis of sex.

In the arena of sports, for example, women must have categories separate from men in order to have equal competition. Indeed, this separation is necessary for women to even enjoy participation at all; when boys/men are allowed to compete as girls/women, they not only take spots on the podium, they also take up spots on the teams, time on the courts, and limited slots that each school has for number of athletes to send to competition.

The athletic advantages that male athletes have over female athletes are well documented and indisputable. While it's worth noting that these advantages don't go away even with hormone regimens intended to mimic the hormone profiles of the opposite sex, it's also important to note that gender identity activists are currently arguing that zero medical intervention should be required for trans-identified male athletes to be allowed to compete as women. If anyone who declares themselves to be a girl is allowed to compete as a girl, there is no way to impose special hormone requirements on a certain "subset" of "girls" (i.e., the "girls" that happen to be of the penis-having variety). What President Biden is asking for is for completely phenotypically normal male athletes to be allowed to compete in women's and girls' sports. This is a patently unreasonable demand, and as a former and current female athlete, it's appalling to me that future girls may not have the opportunities that I did growing up. This was not the intent of Title IX; in fact, it is exactly the opposite of the intent of Title IX.

It is also women and girls who lose when spaces to undress are not separated by sex.

Overwhelmingly, sexual assault is perpetrated by males against females, and not the other way around. Overwhelmingly, crimes of voyeurism such as filming and taking photographs are perpetrated by males against females, and not the other way around. Huge porn websites act as repositories of such footage and photographs taken by men, for men, of women. There is no equivalent effort of women to compile such collections of voyeuristic materials of men.

Therefore, replacing single-sex spaces with mixed-sex spaces to undress disproportionately harms women in a way that it does not harm men, which creates inequality between the sexes. It is disproportionately women whose activities are limited when they cannot use bathrooms or get changed for sports (especially when menstruating) because they feel unsafe. This concept is well

established in developing countries, where it is recognized that a lack of safe and private bathrooms are one of the main barriers to girls getting an education and participating fully in society. Women and rights groups are fighting tirelessly in those countries to establish private facilities for girls. Yet in this country, where we have had those rights for decades, there's a concerted push to bring us backwards.

I implore you to use common sense in interpreting Title IX. It was intended to provide for equality between the sexes, and doing so requires separation of the sexes in certain circumstances. This was true when Title IX was written, and it's still true today. Biological sex is an objective, material reality. Gender identity is subjective, unverifiable, and immaterial. There is no reason for gender identity to supersede biological sex in consideration of the law, and allowing it to do so undermines women's rights and equality.

I hope you will stand up for women's rights, common sense, and scientific data.

Sincerely,  
Emily Kaht